

GOVERNMENT SENATORS' MINORITY REPORT

Report by Senator Alan Eggleston, Deputy Chair, and Senator Ross Lightfoot

Introduction

1.1 The Howard Government's IT Outsourcing Initiative has been an outstandingly imaginative and groundbreaking step in public policy with respect to Government IT services.

1.2 As stated in the first paragraph of Mr Richard Humphry's *Review of the Whole of Government Information Technology Outsourcing Initiative* the Initiative was,

aimed at complementing modern management practices within the Commonwealth Public Service and enhancing access to wider technical skills and technologies. In addition, it sought to introduce discipline in the use of technology to achieve economies of scale and reduce overall costs.¹

1.3 The Government does not resile from the fact that there have been difficulties associated with the Whole of Government IT Outsourcing Initiative. It is a massive and unprecedented undertaking involving billions of dollars and it would be unreasonable to expect it to have proceeded without encountering some problems.

1.4 Responding to concerns expressed in relation to the Initiative, including the Auditor-General's report, *Implementation of Whole-of-Government Information Technology Infrastructure Consolidation and Outsourcing Initiative*, the Minister for Finance and Administration, the Hon John Fahey MP, commissioned Mr Richard Humphry AO to conduct an independent review of the Initiative. He subsequently produced a report entitled *Review of the Whole of Government Information Technology Outsourcing Initiative*, which identified some difficulties associated with the Initiative and included ten recommendations. In its response, the Government agreed to all of these recommendations, although some with qualification.

1.5 The Review heralded a major change in direction for the Initiative. In particular, the Initiative is no longer a centrally managed process, instead the responsibility for its implementation has been devolved to agency heads (Recommendation One). It is also the responsibility of the agencies themselves to choose the outsourcing model which best suits their requirements (Recommendation Two). The concerns of knowledge-based agencies, such as CSIRO, over the effect that outsourcing might have on their operations, was also addressed by the Review. The Government has agreed that the outsourcing of Group 9's IT 'should not proceed until

¹ Richard Humphry, *Review of the Whole of Government Information Technology Outsourcing Initiative*, p. 4.

the Chief Executives of each agency are satisfied that the implementation risks have been adequately addressed', in accordance with Recommendation Nine.

1.6 This change in direction means that in a sense, this Inquiry has been looking at the operation of the Initiative as it once was, not as it currently is.

1.7 Given that many of the criticisms made by the majority members of the Committee in both of the preliminary reports and in this final report duplicate issues raised in both Mr Humphry's Review and also the Auditor-General's Audit Report No. 9, *Implementation of Whole-of-Government Information Technology Infrastructure Consolidation and Outsourcing Initiative*, the extent of the necessity for the Finance and Public Administration References Committee to have conducted this Inquiry must be questioned. The majority report has also failed to acknowledge to a sufficient degree the benefits of the changes in the methodology of the IT Outsourcing Initiative which the Government has instituted in response to the recommendations of Mr Humphry's Review.

1.8 The minority Senators' report, places on the public record, an alternative view of some of the more significant issues raised in the majority report.

1.9 The minority Senators' wish to record their support for the Howard Government's IT Outsourcing Initiative as good public policy. The minority Senators believe that the IT Outsourcing Initiative, in a general sense, has benefited the Commonwealth Government through cost savings and facilitation of access to improved technologies, thus enabling the delivery of services more efficiently and effectively to the Australian people. As well as having played a key positive and constructive role in promoting Industry Development in the IT sector.

Accountability & Transparency

1.10 Accountability and transparency issues have been explored extensively in the previous two interim reports that the Committee has issued in relation to this Inquiry and interested parties are referred to the minority Senators' reports.

1.11 The Minister for Finance and Administration, the Office of Asset Sales and Information Technology Outsourcing (OASITO) and the Department of Finance and Administration (DOFA) have all been singled out for criticism by the majority Senators for failing to cooperate with the Committee, including a failure to provide to the Committee various documents that it has requested. This has been explored in the previous two reports and there were legitimate reasons for not handing over these various documents including commercial-in-confidence grounds, a risk of litigation and public interest immunity.

1.12 Neither the Minister, OASITO nor DOFA have been motivated by a desire to deliberately frustrate the Committee in the course of its inquiries, but whilst recognising their accountability to the Parliament, have also been motivated by a legitimate desire to protect the interests of the Commonwealth.

1.13 As far as the evaluation reports are concerned, the Committee indicated to the Minister that it would be acceptable to provide documents with those elements that were considered to be commercial-in-confidence blanked out, provided that the reasoning was made clear. As for the health tender evaluation report, interested parties are referred to the minority report entitled *Accountability Issues – Two Case Studies* for a full exposition of why the Minister for Finance and Administration refused to provide the Committee with the full and complete report.

1.14 It is crucial to note that both OASITO and DOFA have provided voluminous amounts of material to the Committee in the conduct of this Inquiry and there were good reasons why the Committee was not given access to certain documents or was given documents with parts ‘blanked out’.

1.15 During the course of the Inquiry, companies expressed concern about the public release of information that they considered to be commercially sensitive. In this respect, it is worth repeating what was said by the minority Senators in the first interim report,

Companies considering entering into a partnership with the Government, or who have entered into a partnership with the Government should be able to provide commercially sensitive information to the Government with the confidence that it will not be made publicly available. The provision of material on an in-confidence basis is a normal practice within the commercial sector. Public disclosure of sensitive information may have adverse commercial consequences for the company. It may, for instance, provide a competitor with some sort of commercial advantage. The danger of commercially sensitive material being made publicly available will in fact limit the scope for free and open negotiation between companies and the Government, and may have an adverse impact on government tendering processes. As much was acknowledged by Mr Smith [Chief Executive, OASITO] in his letter of 21 February, when he said that if the evaluation reports were to become public, ‘it may have an adverse market impact, affecting the Commonwealth’s ability to solicit frank and competitive tenders going forward’.²

1.16 The minority Senators acknowledge that evidence can be given to a committee on an ‘in camera’ basis, but also note that it is subsequently open for the Senate or the Committee to authorise the evidence for publication. Simply because evidence has been received on a confidential basis is no guarantee that it will not be subsequently publicly released.

1.17 Because accountability and transparency issues have been explored previously the discussion here has been kept deliberately brief. For a fuller exposition of these issues, interested parties are once again referred to the two previous interim reports.

² *Accountability in a Commercial Environment - Emerging Issues*, p. 26.

Probity Issues

1.18 The situation relating to the unauthorised disclosure of a health tender document and the subsequent acceptance of a late tender has previously been explored by the minority Senators' in the second interim report, *Accountability Issues – Two Case Studies*. Further exposition of this matter would be unproductive and interested parties are referred to this minority report. Suffice to say, there is no evidence to suggest that OASITO acted in any way other than appropriately.

1.19 The role of the probity auditor, Mr Marks, in the outsourcing process was also reflected upon in this report and interested parties are once again directed to the minority report. There is nothing to indicate that Mr Marks provided anything other than full and frank advice, that he acted other than entirely independently and appropriately throughout the entire process and was satisfied that there were no outstanding probity issues.

1.20 The minority Senators note the concerns expressed by the majority in relation to clauses in the Request For Tenders (RFTs) which confer very broad rights on the Commonwealth.³ However, there is a need for the Commonwealth to ensure maximum flexibility in order to meet any unforeseen developments and in order to protect its own commercial interests. Simply because the Commonwealth Government is in a unique position is no excuse for it not to seek to protect its own interests, which are ultimately those of Australia's taxpayers. If a company considers the terms of an RFT are too onerous or inequitable, it is under no obligation to tender for the contract.

The Relationship between the Agencies & OASITO

1.21 Up until January 2001, OASITO was responsible for the day-to-day management of the Government's IT Outsourcing Initiative and OASITO was directly involved in the tender process.

1.22 The Minister for Finance and Administration set out 'clear roles and responsibilities' for OASITO and the agencies.⁴

1.23 OASITO states in its submission that,

In accordance with this statement, group agencies were responsible for defining business and technical requirements, evaluating the IT services component and preparing the agency for transition to an outsourcing relationship and subsequent contract management.

OASITO was responsible for the strategic oversight and implementation of the Initiative. Throughout the outsourcing process and during the subsequent contracts agencies still retained responsibility for planning and resourcing their demand for services consistent with the devolved management

³ Report into the Whole of Government IT Outsourcing Initiative, p. 81.

⁴ OASITO, Submission, p. 10.

framework across the budget sector. Each of the agencies that made up a group had high level responsibilities and control over the decisions made throughout the process, consistent with their responsibilities under the FMA and CAC Acts.

OASITO provided advice and coordination to agencies in the implementation of the whole of government arrangements. A driver in establishing OASITO's coordination role was the need for a consistent approach to industry to reduce tender costs and to ensure that the Commonwealth's interests and risk were consistently treated and understood on a whole of government basis.⁵

1.24 In his *Review of the Whole of Government Information Technology Outsourcing Initiative*, Mr Richard Humphry found that agencies felt disempowered by the IT outsourcing process. He said that,

It is clear that the overall control of the outsourcing process lies with OASITO and agencies have not been able to exercise the degree of control they believe they require in order to best manage their transition risks from in-house service provision to an outsourced ESP.⁶

1.25 It was inevitable that there were going to be tensions between agencies and OASITO, particularly where agencies may have resented outside intervention and believed themselves capable of managing the IT outsourcing process (the ATO's submission is instructive in this regard). Nor should the significant agency resistance to IT outsourcing in the first place, be forgotten. Indeed, Mr Humphry commented that the Whole of Government IT Outsourcing Initiative, 'was aimed at overcoming the inertia' of government agencies to the concept of IT outsourcing.⁷

1.26 Notwithstanding all of this, throughout the course of this Inquiry, government agencies have made constructive and very positive comments about their involvement in the IT outsourcing process and their interaction with OASITO.

1.27 Mr Peter Moran, Assistant Secretary, Department of Health and Aged Care (DHAC) certainly did not give any indication that DHAC had felt marginalised from the process when he said that,

We had a very great deal to do with the preparation of the specification, the request for tender – in other words, the draft contract, in large extent. My own staff spent, I suppose it is fair to say, many months drafting that document. After we went to tender the department of health and indeed the Health Insurance Commission were very closely involved in the development then of the bids as they came forward and the parallel negotiations, I guess you would call them, to develop the final contract. We

⁵ OASITO, Submission, p. 10.

⁶ Richard Humphry, *Review of the Whole of Government Information Technology Outsourcing Initiative*, p. 30.

⁷ Senate Finance and Public Administration Hansard, 7 February 2001, p. 65.

conducted a fairly extensive – and independent of OASITO, I might say – review of the contract towards the end, in the six weeks leading up to contract signature, and, to the extent that skill and ability can solve these things, we are comfortable that the services agreement we have with IBM GSA represents our needs and protects the Commonwealth’s interests.⁸

1.28 At another point, Mr Moran reaffirmed DHAC’s active involvement in the negotiation process when he said that, ‘But I think it is fair to say that in each of the evaluation areas – financial, technical and corporate – we took a very vigorous and up-front role both with OASITO and obviously with each of the vendors’.⁹

1.29 He further stated that, ‘I do not think it is the case that Health at any point was not comfortable with the negotiations in which it took part’.¹⁰

1.30 Mr Moran also said that DHAC benefited from OASITO’s involvement in the tender process. He acknowledged that,

It is probably fair to say that some of the negotiating leverage which we were able to apply – more particularly I think that OASITO was able to apply during particularly the parallel negotiations – arguably would not have been available to the department of health had we been doing it on our own.¹¹

1.31 Ms Dianne Jay, General Manager, Corporate Services, Medibank Private acknowledged the expertise that OASITO brought to the negotiation process.¹² She also noted that Medibank Private was not entirely reliant on OASITO and that it had a team of employees who participated in the evaluation process. Ms Jay did not indicate that Medibank Private felt marginalised from the process, but said that, ‘We had plenty of opportunities for issues that we wanted to raise to be dealt with’.¹³

1.32 Mr Edward Killesteyn, Executive Coordinator, Business Solutions, Department of Immigration and Multicultural Affairs (DIMA), made it clear that the department was significantly involved in the outsourcing process. He said that,

We had a vested interest in ensuring that the whole process, from specification through to evaluation and negotiation, met our best interests because we were the ones ultimately that had to live with the result. Our role was very strong in all parts of the process.¹⁴

⁸ Senate Finance and Public Administration Hansard, 9 March 2001, p. 119.

⁹ Senate Finance and Public Administration Hansard, 9 March 2001, p. 123.

¹⁰ Senate Finance and Public Administration Hansard, 9 March 2001, p. 124.

¹¹ Senate Finance and Public Administration Hansard, 9 March 2001, p. 134.

¹² Senate Finance and Public Administration Hansard, 9 March 2001, p. 149.

¹³ Senate Finance and Public Administration Hansard, 9 March 2001, p. 150.

¹⁴ Senate Finance and Public Administration Hansard, 15 March 2001, p. 217.

1.33 OASITO was clearly not insensitive to agency needs. Mr Ian McIntosh, Executive Director, Cluster 3 Contract Management Office, DIMA, said that, ‘agencies were heavily involved in determining what it was that they wanted and how it would be delivered’.¹⁵

1.34 The Australian Taxation Office (ATO) said that they were involved, ‘[f]rom the beginning of the tender negotiations’.¹⁶ Mr John Growder, First Assistant Commissioner IT Services, ATO said that the ATO was involved in the contract negotiation phase, recognising that it was crucial that the contract met the ATO’s requirements. He said that,

We felt that we needed to be involved in those things because ultimately we are going to wear the result; we have to make this work. That was a very important consideration all the way through the process. If we were going to find ourselves in the situation where the services were outsourced, we were the ones who had to be in a position to make it work.¹⁷

1.35 Indeed, the ATO described themselves as being very much part of a team, consisting of themselves, OASITO and strategic advisers and that they were ‘very active participants’.¹⁸

1.36 The ATO also said that it was involved in selecting the successful tenderer.¹⁹

1.37 The majority Senators’ report concedes that, ‘Although OASITO had a central and dominant role in the process, it appears that agencies were closely involved throughout the outsourcing process and during the subsequent contracts’.²⁰

1.38 In addition, there was nothing to stop agencies from engaging their own external expertise in order to assist them in the outsourcing process.

1.39 Of course, all of this is rather a moot point. The outsourcing process is no longer centrally managed and OASITO no longer has a role to play. Recommendation One of Mr Humphry’s *Review of the Whole of Government Information Technology Outsourcing Initiative* was that, ‘future responsibility for implementing the Initiative should be fully devolved to agency Chief Executives or Boards’.²¹ This recommendation was accepted by the Government. OASITO’s relationship with agencies is, therefore, no longer a relevant consideration. It is now up to agencies to manage the outsourcing process themselves.

¹⁵ Senate Finance and Public Administration Hansard, 15 March 2001, pp. 217 - 218.

¹⁶ Senate Finance and Public Administration Hansard, 15 March 2001, p. 330.

¹⁷ Senate Finance and Public Administration Hansard, 15 March 2001, p. 330.

¹⁸ Senate Finance and Public Administration Hansard, 15 March 2001, p. 331.

¹⁹ Senate Finance and Public Administration Hansard, 15 March 2001, p. 330.

²⁰ Report into the Whole of Government IT Outsourcing Initiative, p. 45.

²¹ Richard Humphry, *Review of the Whole of Government Information Technology Outsourcing Initiative*, p. 6.

The Agency & Contractor relationship

1.40 One of the lessons of the Inquiry is that a strong partnership is required between government agencies and their contractors, which assists the relatively smooth transition from an in-house environment to an outsourced one. A commitment is required from both organisations for the relationship to be mutually beneficial.

1.41 For example, Ms Rosanne Kava, First Assistant Secretary, Corporate Division, Department of Transport and Regional Services (DOTRS), told the Committee that,

Our focus at the moment is very much on working with the outsourcer in making the contract work effectively. We are interested in forging a partnership to our mutual benefit so that we do receive good service and meet our objectives in terms of having this arrangement in place.²²

1.42 It is important that arrangements be put in place in order to effectively manage the relationship. Staff with relevant skills and expertise need to be retained by the agencies in order to focus on contractual issues. Cluster 3, for instance, has established a Contract Management Office to manage its relationship with CSC.²³

Clustering

1.43 Under the Whole of Government IT outsourcing initiative, agencies were encouraged to group or cluster together, where appropriate, to negotiate a contract with an external service provider.

1.44 A number of agencies have taken advantage of clustering. For example, Cluster 3 consists of: the Department of Immigration and Multicultural Affairs; the Australian Electoral Commission; the Department of Finance and Administration (for Services to Electorate Offices); the Australian Government Analytical Laboratories; Australian Surveying and Land Information Group; Ionospheric Prediction Service; and IP Australia.

1.45 Clustering has been justified on the basis of the 'potential for significant economies of scale to be had in agencies grouping together'.²⁴ However, economies of scale are not the only justification for clustering, as exemplified by the following comment from OASITO,

Grouping can lead to benefits through economies of scale as well as benefits from more vigorous price and performance competition among vendors, reduced tender costs to government and industry, increased opportunities for

²² Senate Finance and Public Administration Hansard, 9 March 2001, p. 188.

²³ DIMA, Submission, p. 2.

²⁴ DOFA, Submission, p. 3.

rationalisation and standardisation between agencies and efficiency in contract management downstream.²⁵

1.46 For smaller agencies, clustering has the advantage that they can seek to become part of a larger group and thereby take advantage of the lower cost structures that economies of scale entail, and it also makes it more attractive for IT companies to seek to provide them goods and services. This means that even in the absence of a clear synergy between the cluster participants, these smaller agencies can gain access to the skills and expertise of companies which might not otherwise be available to them in the absence of the clustering arrangement, because they are not viewed as providing sufficiently attractive commercial returns in their own right.

1.47 This was in part echoed by Mr Raymond Comer, Executive Manager, Corporate Services, Civil Aviation Safety Authority (CASA) when he said that,

We are a group of eight which do not have any particular business connection or common strategic direction. But, at a very simplistic level, you would assume that a cluster agency has better buying power than a smaller agency like CASA. So I think we would look very seriously at being able to leverage with other people. You might choose different partners perhaps, but I think you would always seek to cluster yourself in some way to get the maximum buying power.²⁶

1.48 Mr Killesteyn, DIMA also cited the importance of economies of scale when he testified that, ‘There are some clear benefits in terms of scale. I think that has been pretty clearly demonstrated, particularly from our perspective when you look at the unit rates that we are being charged’.²⁷

1.49 A source of concern is that the interests of the smaller participants in the cluster may be subsumed by those of the larger participants, as elucidated by Senator Kate Lundy during the course of the Inquiry.²⁸ In response to such a question from Senator Lundy, Ms Jay, Medibank Private said that, ‘[w]e had plenty of opportunities for issues that we wanted to raise to be dealt with’, and that overall ‘they were satisfied’ with the ultimate tender outcome for their group.²⁹ Mr James Kelaher, Deputy Managing Director, Health Insurance Commission (HIC) stated that, ‘[u]nder the arrangements we entered into, we derived considerable benefit from participating in the health cluster ...’³⁰

²⁵ OASITO, Submission, p. 6.

²⁶ Senate Finance and Public Administration Committee Hansard, 9 March, p. 203.

²⁷ Senate Finance and Public Administration Committee Hansard, 15 March, p. 222.

²⁸ Senate Finance and Public Administration Committee Hansard, 9 March, p. 150.

²⁹ Senate Finance and Public Administration Committee Hansard, 9 March, p. 150.

³⁰ Senate Finance and Public Administration Committee Hansard, 9 March, p. 159.

1.50 It would be wrong to characterise agencies as being disenfranchised from the clustering arrangements, or unwilling participants in the cluster process. The Department of Transport, for example, was very keen to become involved. This is evident from Ms Kava's testimony before the Committee when she stated that,

The department took a very active role in the composition of the cluster. We actively sought out partners amongst other agencies and in fact approached OASITO indicating that we were interested in finding like organisations. So we were very actively involved in the selection of the other cluster members.³¹

1.51 Equally, Mr McIntosh, DIMA said that: 'In terms of the cluster construction, that was very much an agency decision as to when and with whom it would approach the marketplace'.³²

1.52 Agencies were not compelled to enter into clustering arrangements. ScreenSound Australia, the National Screen and Sound Archive is an example of an agency which chose not to participate in a cluster because it wanted to retain the maximum amount of flexibility. As the Archive stated in its submission,

The Archive outsourced its IT operations under the Office of Asset Sales and Information Technology Outsourcing (OASITO) small agency program. This approach enabled us to test the marketplace as a sole agency rather than as a member of one of the 'clusters', which grouped larger agencies together for the purposes of outsourcing. We elected to work under the small agency program in order to give ourselves as much flexibility as possible to test the marketplace in a manner which best suited our business requirements.³³

1.53 For those agencies that have chosen to cluster, an important point to note is that, depending upon the cluster arrangements that were entered into, the participants are not necessarily locked into the cluster until the expiration of their contract with the ESP. There is a degree of flexibility. The Humphry Review found that,

A single contract for an entire group appears to be unnecessary and allows agencies less flexibility in managing their relationship with their ESP. Indeed, in the course of implementation, later clusters of agencies have not used a single, common contract and this is a sensible and worthwhile evolution.³⁴

1.54 Cluster 3 is an example of this. This is evident from DIMA's submission where it was stated that: 'It should be noted that the current Cluster 3 arrangement

³¹ Senate Finance and Public Administration Committee Hansard, 9 March, p. 171.

³² Senate Finance and Public Administration Committee Hansard, 15 March, p. 217.

³³ ScreenSound Australia, the National Screen and Sound Archive, Submission, p. 2.

³⁴ Richard Humphry, *Review of the Whole of Government Information Technology Outsourcing Initiative*, p. 11.

provides a discretion for Agencies to depart the Cluster or remove particular components of service from the scope of the Cluster Agreement’.³⁵

Clustering post-Humphry

1.55 The Humphry Review found that:

Grouping of agencies has served a useful purpose in enabling economies of scale and providing a coordinated approach to the market. As the Initiative has matured, the original rationale for grouping appears to be less relevant. However, where there are clear synergistic benefits to grouping, agencies may choose to adopt this approach in implementation in the future.³⁶

1.56 Accordingly, recommendation 4 of the Review stated that:

When current IT outsourcing contracts expire, there is little benefit in mandating that agencies adhere to their existing groupings. Within the overall government policy to outsource, agencies should exercise their own discretion on how to approach re-tendering or contract renewal.³⁷

1.57 Following the Government’s agreement to this recommendation, it is clear that the future of clustering is entirely up to individual agencies. However, in the light of the rationale for clustering and some of the positive comments that agencies have made it would be surprising if at least some of the agencies did not continue to remain part of a cluster, although not necessarily in their current form. This is certainly the expectation of the Government, as revealed in its response to recommendation 4, which said that, ‘Agencies will more than likely continue to seek economies of scale through groups at their own discretion’.³⁸

Savings

1.58 The issue of savings has proved to be contentious throughout the course of this Inquiry, with dispute over the magnitude and existence of the savings that the Government’s IT Outsourcing Initiative was supposed to have generated. Certainly, value for money IT (of which cost savings were an important component) was a major driver of the policy to outsource IT.

1.59 Mr Richard Humphry, in his *Review of the Whole of Government Information Technology Outsourcing Initiative*, found that, ‘[t]here is broad agreement that, in the aggregate, the Initiative has delivered significant savings, however there is a divergence of opinion as to the precise quantum’.³⁹

³⁵ DIMA, Submission, p. 4.

³⁶ Richard Humphry, *Review of the Whole of Government Information Technology Outsourcing Initiative*, p. 11.

³⁷ Richard Humphry, *Review of the Whole of Government Information Technology Outsourcing Initiative*, p. 13.

³⁸ Government Response to Humphry Review Recommendations.

³⁹ Richard Humphry, *Review of the Whole of Government Information Technology Outsourcing Initiative*, p. 22.

1.60 The Auditor-General, Mr Pat Barrett, whilst disagreeing with some of the methodology in calculating savings, also found that overall the Initiative had delivered substantial savings to the Government.⁴⁰

1.61 It is important to note that as far as the Auditor-General's Recommendations Twelve and Fourteen go, in relation to the methodology in the calculation of savings, the DOFA whole-of-government response disagrees with these recommendations.⁴¹

1.62 Savings were calculated on the basis of an agency baseline of what IT would cost if it was provided in-house, along with an assumption of what the agencies future requirements might be, as opposed to the cost of IT provided by an external service provider based on the same level of current and future IT requirements.

1.63 It is difficult to estimate the level of savings that have been achieved, because the IT demands and requirements of agencies do not remain static. This point was made by OASITO in its submission, which stated that,

Each agency's actual requirements over the life of the contract are determined by agency business needs and, to the extent that the agency requires more or less services than were originally estimated, the resulting contract cost will be higher or lower than originally projected.⁴²

1.64 It is not, therefore, a simple case of comparing costs prior to outsourcing, and current costs, and coming to an assessment of the savings that have been achieved. This was acknowledged by the ATO in its submission to the Committee when it stated that,

... due to the dynamics of the IT Industry and the degree of change in the use of IT within the ATO, those savings [i.e. savings as a result of outsourcing] are now impossible to quantify with any degree of confidence against the original cost baseline.⁴³

1.65 A similar point was made by Mr Jones, Public Service and Merit Protection Commission when he said,

... you can only compare what you spend on a new provider with what you spent previously, but you are talking about a different set of services and you are talking about a different IT platform. You would not even be

⁴⁰ Australian National Audit Office, *Implementation of Whole-of-Government Information Technology Infrastructure Consolidation and Outsourcing Initiative*, p. 166.

⁴¹ Australian National Audit Office, *Implementation of Whole-of-Government Information Technology Infrastructure Consolidation and Outsourcing Initiative*, pp. 156 and 165.

⁴² OASITO, Submission, p. 22.

⁴³ ATO, Submission, p. 14.

comparing apples and oranges. You would not even be comparing fruit and vegetables.⁴⁴

1.66 The Auditor-General has said that as time progresses, it will become more difficult to monitor,

the extent to which the savings projected in tender evaluations are realised ... as agencies' requirements and technological solutions change. It will become increasingly difficult for agencies to estimate the cost that would have been incurred to deliver those services internally.⁴⁵

1.67 As Dr Peter Boxall, Secretary, DOFA acknowledged while testifying before the Committee, unanticipated requirements of agencies would have arisen regardless of whether IT was provided in-house or externally.⁴⁶ As Mr Ross Smith, Chief Executive Officer, OASITO validly states, 'the fact that agencies spend more money on IT is not a function of the fact that they have outsourced'.⁴⁷ Indeed, according to OASITO's submission, the general trend for all agencies, irrespective of whether or not they have outsourced, is greater utilisation of IT.⁴⁸

1.68 If IT outsourcing has resulted in lower costs than under an in-house model, then it is reasonable to assume that any unanticipated IT requirements will also be provided at a lower cost than would otherwise have been the case. As Dr Boxall stated, 'The point is that if you are getting a very good unit cost deal at the point in time that you sign up, then if the number of units go up, you continue to get that'.⁴⁹ Similarly, Mr Smith makes the point that agencies,

make a projection for five years based on most often growing volume, and that is priced, and the price that we get per unit is based on increased volume. The greater the increase in the volume, the lower the unit cost. So what you can say with some confidence is that, for every dollar they spend in addition, they are going to get a lower unit cost in doing business.⁵⁰

1.69 Some agencies have said that they have been hard pressed to find any savings from outsourcing. For example, DOTRS has said that they outsourced in the knowledge that there would be no savings, but that outsourcing would deliver overall savings to their cluster, Group 5.⁵¹ CASA provided testimony to the Committee that

⁴⁴ Senate Finance and Public Administration References Committee Hansard, 17 May 2001, p. 470.

⁴⁵ Australian National Audit Office, *Implementation of Whole-of-Government Information Technology Infrastructure Consolidation and Outsourcing Initiative*, p. 195.

⁴⁶ Senate Finance and Public Administration References Committee Hansard, 7 February 2001, p. 109.

⁴⁷ Senate Finance and Public Administration References Committee Hansard, 7 February 2001, p. 112.

⁴⁸ OASITO, Submission, p. 22.

⁴⁹ Senate Finance and Public Administration References Committee Hansard, 7 February 2001, p. 111.

⁵⁰ Senate Finance and Public Administration References Committee Hansard, 7 February 2001, p. 112.

⁵¹ Senate Finance and Public Administration References Committee Hansard, 9 March 2001, p. 174.

they disagreed with OASITO's savings estimate of approximately \$5 million, because it failed to take account of CASA's agency-specific costs, and said that on their calculations the outsourcing of IT was costing them around \$1 million more than previously.⁵²

1.70 In this respect it is crucial to note that IT Newcom provided evidence to the Committee that it has been their experience, in the deals that they have been involved in, that estimated cost savings do not always materialise.⁵³

1.71 Other agencies have confidently asserted that IT outsourcing has delivered savings. In the case of DOFA, Dr Boxall said that the savings that have accrued as a result of outsourcing, 'have exceeded the original estimate'.⁵⁴ DIMA, and the cluster in which it is a participant, Cluster 3, has experienced savings. As Mr Killestyn, DIMA, stated: 'The ANAO report indicated that the actual savings from the first year of operation were about 80 per cent of the projected savings that were done'.⁵⁵ In its submission to the Committee, the ATO said that it 'believes that it is making savings' as a result of outsourcing. In his testimony before the Committee, Mr Bruce Jones, Second Commissioner, ATO said that: 'Our judgement is that where we are today is cheaper than where we would otherwise have been'.⁵⁶

1.72 What is not in doubt is that overall, if you look across the entire spectrum of the Initiative, it has delivered significant savings to the Commonwealth.

Budget Reductions

1.73 In the 1997-98 Budget, agencies had their forward estimates reduced in anticipation of the savings that would be delivered by IT outsourcing.

1.74 Concern about budget reductions was expressed, for example, in the submissions of the Commonwealth Public Sector Union,⁵⁷ and the Bureau of Meteorology.⁵⁸

1.75 The Auditor-General found that in the case of the ATO, and Group 5, the level of estimated savings was exceeded by budget reductions. However, in the case of Cluster 3, the level of estimated savings exceeded the level of budget reductions.⁵⁹ Indeed, in the case of DIMA, the savings achieved from the Initiative were, 'about 1

⁵² Senate Finance and Public Administration References Committee Hansard, 9 March 2001, p. 195.

⁵³ Senate Finance and Public Administration References Committee Hansard, 9 March 2001, p. 209.

⁵⁴ Senate Finance and Public Administration References Committee Hansard, 7 February 2001, p. 109.

⁵⁵ Senate Finance and Public Administration References Committee Hansard, 15 March 2001, p. 219.

⁵⁶ Senate Finance and Public Administration References Committee Hansard, 15 March 2001, p. 329.

⁵⁷ Commonwealth Public Sector Union, Submission, p. 15.

⁵⁸ Bureau of Meteorology, Submission, pp. 1 – 2.

⁵⁹ Australian National Audit Office, *Implementation of Whole-of-Government Information Technology Infrastructure Consolidation and Outsourcing Initiative*, p. 130.

½ times greater than the actual budget reduction that was made to DIMA's forward estimates'.⁶⁰ Dr Boxall said that in the case of DOFA, the savings that had been achieved under the contract with, 'IBM and CSC are well in excess of the savings which were docked from our forward estimates'.⁶¹ He further said that, 'Many other agencies would have had a similar experience'.⁶²

1.76 It is not a valid exercise, 'to draw direct parallels between the savings identified in the individual tender processes, and the reductions made to agency forward estimates'.⁶³ It is misleading because it fails to take account of the savings that had been achieved by agencies via a more efficient use of their IT in-house, prior to the calculation of expected savings through outsourcing under the tender process. As explained in the DOFA submission,

The primary reason, recognised by the ANAO, is that the savings are measured from a different starting point in each process. By the time OASITO were estimating cost savings in the tender evaluation process, many agencies had already improved the efficiency of their IT use, and achieved cost savings in the provision of IT services in-house, in anticipation of IT outsourcing. The savings achieved in the lead up to outsourcing were not reported by OASITO, and the ANAO did not attempt to estimate them in Audit Report No. 9 of 2000-01.⁶⁴

1.77 It is the case that some agencies that have experienced budget reductions have still not outsourced their IT (for example, the Bureau of Meteorology and the CSIRO), meaning that they have not had the opportunity to achieve savings as a result of outsourcing. However, it is still open for them to outsource their IT, should it be appropriate.

1.78 Additionally, it is open for agencies to make savings through a more efficient use of their in-house IT, in order to cover any shortfall as a result of the budget reductions. Dr Boxall testified that,

The issue is that what we have observed is that many agencies have begun to make certain savings themselves, even in anticipation of outsourcing, and have often been able to achieve the savings anyway without having to outsource. Of course, they could probably achieve more savings by outsourcing –⁶⁵

⁶⁰ Senate Finance and Public Administration References Committee Hansard, 15 March 2001, p. 219, per Mr Killesteyn.

⁶¹ Senate Finance and Public Administration References Committee Hansard, 7 February 2001, p. 107.

⁶² Senate Finance and Public Administration References Committee Hansard, 7 February 2001, p. 107.

⁶³ Australian National Audit Office, *Implementation of Whole-of-Government Information Technology Infrastructure Consolidation and Outsourcing Initiative*, p. 128.

⁶⁴ DOFA, Submission, p. 6.

⁶⁵ Senate Finance and Public Administration References Committee Hansard, 7 February 2001, pp. 106 – 107.

1.79 In its submission, OASITO said that,

It is a matter of record that some agencies have made efficiencies in their IT since 1997, regardless of whether they have outsourced or not, and whether their outsourcing was consistent with the timetable proposed when the Government took its decision.⁶⁶

1.80 Dr Boxall made the point that where agencies are not coping, it is always open to their Minister to seek a budgetary increase, and that as far as he was aware, no such approach had been made. He said,

There is nothing to stop a minister at any time approaching the minister for finance and, through the budget process, with a new policy proposal, there is nothing to stop a minister coming up and saying, 'We can't cope. We need additional running costs.' The important point to keep in mind is that with these savings – which are very similar to efficiency dividends which governments have levied on departments across the board on a number of occasions before the introduction of accrual budget – it is the same across-the-board type of approach that has always been used until the introduction of accrual budget, and there is nothing to stop a minister bringing a proposal to ERC to, in effect, claw back the savings. As far as I know, there is no case where that has been done.

Let us move on to the new accrual budgeted framework where we no longer operate with these sort of across-the-board instruments and we do it through pricing reviews. We are in the second year of a three-year pricing review program at the moment. When a pricing review is done between an agency and DOFA and is put to ERC – and hence to cabinet for agreement – we, of course, take account of all factors, including issues with respect to IT. **The bottom line is that, as the secretary of the Department of Finance and Administration, I have yet to see a policy proposal asking to claw back these savings which were taken in the 1997-98 budget.**⁶⁷

Industry Development

1.81 A major consideration of the IT Outsourcing Initiative has been to maximise opportunities for domestic IT companies. Indeed, IT outsourcing has presented companies with business opportunities that simply would never have existed if IT had remained 'in-house'. During his appearance before the Committee, Mr George Bell, Managing Director and Chief Executive Officer, Computer Sciences Corporation (CSC) pointed out that, 'government IT makes up such a large proportion of the IT industry, more so than in most of the economies overseas with whom you would compare us', and went on to emphasise the importance of ensuring that this, 'is leveraged in a sensible way' in order to encourage industry development.⁶⁸

⁶⁶ OASITO, Submission, p. 21.

⁶⁷ Senate Finance and Public Administration References Committee Hansard, 7 February 2001, p. 107.

⁶⁸ Senate Finance and Public Administration Committee Hansard, 6 August 2001, p. 643.

1.82 The valuable stimulus that IT outsourcing has provided to the IT industry cannot be underestimated. It has been of particular benefit to Australian small to medium enterprises (SMEs), allowing them to grow and further develop their IT expertise. During his appearance before the Committee, Mr Chris Reeves, Executive Director, Canberra Business Council said that,

The Canberra Business Council has long supported the concept of IT outsourcing because in our view it boosts industry development and provides opportunities for business, particularly SMEs, to develop and grow their business, which in turn means economic growth and higher employment.⁶⁹

1.83 Mr Kelaher, HIC, demonstrated the level of interest shown by companies in becoming involved in IT outsourcing when during the course of giving evidence before the Committee he said, ‘The contract was highly sought after and we continue to receive a lot of interest from other players in the industry who would like to become involved in that activity’.⁷⁰

1.84 OASITO’s submission states that prior to the initiative, Australian IT companies, ‘often had an ad hoc role in service provision to the Commonwealth’, and ‘were often at the very low value end of services provision’, which ‘contributed little to the development of growth opportunities for those Australian IT companies’.⁷¹

1.85 Of the five IT outsourcing contracts, each contains a specific ID plan which the successful tenderers have committed to. It was the responsibility of both OASITO and DOCITA to evaluate the industry development component.⁷² The Department of Communications, Information Technology and the Arts (DOCITA) is charged with the responsibility of monitoring these plans, and ensuring compliance.

1.86 OASITO sets out the ID objectives of the initiative as:

- supporting growth in the Australian IT & T industries;
- promoting the international competitiveness of the Australian IT&T industries; and
- supporting employment growth and development in Regional Australia.⁷³

1.87 A significant long-term aim of the initiative is to aid ‘development of the Australian IT & T sector by building Australian companies with a size and scale to be able to compete globally’.⁷⁴

⁶⁹ Senate Finance and Public Administration Committee Hansard, 16 March 2001, p. 340.

⁷⁰ Senate Finance and Public Administration Committee Hansard, 9 March 2001, p. 164.

⁷¹ OASITO, Submission, p. 3.

⁷² OASITO, Submission, p. 34.

⁷³ OASITO, Submission, p. 4.

1.88 In furtherance of these objectives, the ID framework states that preference is to be accorded to, ‘maximising opportunities for Australian SME’s’, as well as, ‘maximising the use of Australian products and services’.⁷⁵

1.89 When Mr John Glenn, Principal for Strategic Development, Sausage Software Ltd appeared before the Committee he highlighted the important role of IT outsourcing in fostering industry development when he said that in the absence of IT outsourcing,

We would have seen more commodity based activity and more lower level product focused activity, but not the major responsibilities of companies standing up and saying, ‘Now we can be a major player in what truly is an international standard activity’, because of both size and involvement with such a major client.⁷⁶

ID Results

1.90 According to OASITO,

The outsourcing contracts to date ensure that of all the goods and services provided under the contracts, approximately 75% [or some \$845 million] will be of Australian Value Added content and some 30% [or \$330 million] of the total work will be done by Australian SMEs. The five executed contracts also include commitments of around \$280 million dollars of exports or import replacements and approximately 400 new jobs in regional Australia as a result of new out of scope initiatives. These figures reflect the fact that larger outsourcing companies have committed to partner with local companies to deliver exports and new jobs through international marketing agreements and channels to new markets.⁷⁷

1.91 DOCITA monitors the contractors’ compliance with their ID commitments. As Mr Michael Sutton, General Manager, IT Industries Development Branch, DOCITA said during the course of giving evidence,

The formal requirement under the contract is the annual report. The annual report is the formal trigger for any formal action that may be required under the contract. However, we keep in regular contact with the primes during the year, particularly during the first years of the contract, to ensure that their systems are adequate, to ensure that they understand our requirements and the requirements of the contract, and basically to smooth the administration of the contract.⁷⁸

⁷⁴ OASITO, Submission, p. 4.

⁷⁵ OASITO, Submission, p. 4.

⁷⁶ Senate Finance and Public Administration Committee Hansard, 16 March 2001, p. 351.

⁷⁷ OASITO, Submission, p. 23, and DCITA, *IT Outsourcing Initiative: 1999-2000 Industry Development Progress Report*, p. 2.

⁷⁸ Senate Finance and Public Administration Committee Hansard, 15 March 2001, p. 258.

1.92 Where ID commitments have not been met, DOCITA can issue a breach notice requiring the formulation of a corrective action plan. Where a contractor is uncooperative, a financial sanction can be applied as a last resort. DOCITA concedes that, 'there have been circumstances where contractors have not met isolated industry development targets'.⁷⁹ However, the submission goes on to say that, 'In these cases the companies have acted in good faith and appropriate rectification plans have been agreed'.⁸⁰

1.93 It is crucial to have sufficient flexibility in the ID Plans to take account of changing circumstances. Accordingly, contractors are able to submit proposals to DOCITA to vary their ID Plans, which 'will only be accepted if they provide an equivalent or better industry development outcome'.⁸¹ In addition, where the level of services required by the relevant agency increase or decrease, 'the in-scope ID commitments relating to SME involvement and Australian Value Added will change by the same proportion as the change in the services'.⁸²

1.94 Each of the contractors is required to submit an annual report on their ID achievements to DOCITA. CSC (for Cluster 3), EDS (for the ATO), and Advantra (for Group 5) have all submitted their annual reports for 1999-2000, which have been published in the form of the *1999-2000 Industry Development Progress Report*. The first reports for Ipex (for Group 8) and IBM GSA (for the Health Group) are not yet due.

1.95 Overall, the ID outcomes, as described in the Report have been outstanding. As the DOCITA submission states, 'in the main, individual companies exceeded their contracted industry development target levels during the year, often by a significant margin ... Most of the aggregate targets were exceeded by a wide margin'.⁸³

1.96 There are two classes of ID commitments under the outsourcing initiative: in-scope, and out-of-scope. **In-scope** is defined as 'directly related to the delivery of the contract services where the main objective was to maximise Australian Value Add and SME participation'.⁸⁴ **Out-of-scope** is described as 'other activities offered by the contractor not directly related to the delivery of the services. It is where the Commonwealth has sought to maximise activities such as strategic investment, exports and employment, especially regional employment'.⁸⁵

⁷⁹ DOCITA, Submission, p. 3.

⁸⁰ DOCITA, Submission, p. 3.

⁸¹ DOCITA, Submission, p. 3.

⁸² DOCITA Submission, p. 3.

⁸³ DOCITA Submission, p. 4.

⁸⁴ DOCITA, *IT Outsourcing Initiative: 1999-2000 Industry Development Progress Report*, p. 5.

⁸⁵ DOCITA, *IT Outsourcing Initiative: 1999-2000 Industry Development Progress Report*, p. 6.

1.97 According to the Report, Cluster 3, Group 5 and ATO contracts achieved the following impressive ID results over the course of the year:

- SMEs received \$91 million of business related to the contract. AVA recorded was \$159 million representing 83 per cent of total service charges.
- Total investment of \$33 million and total exports of \$33 million and total exports of \$23 million were achieved across a range of out-of-scope initiatives.
- Out of 378 new IT and support jobs created out-of-scope, 149 are located in regional Australia.
- A total of 11 out-of-scope initiatives are now in place specifically aimed at developing the businesses of SMEs.
- Apart from the major IT centres of Sydney and Melbourne, out-of-scope initiatives are being derived in Brisbane, Adelaide, Canberra, Newcastle, Ballarat and Darwin.
- A project register has been implemented which will allow companies tendering in the IT Outsourcing Initiative to make investments with the confidence that they can be included in future industry development proposals.⁸⁶

1.98 The three contractors had aggregated in-scope achievements during 1999-2000 of:

	Achievement	Target#	% of target# achieved
Australian Value Add	83%	74%	112
Payments to SMEs	47%	28%	167
Total net employment – FTE*	705	587	120
Total regional employment – FTE**	505	390	129

* FTE – full-time employment equivalent of employment.

** Regional employment is a subset of the total employment number.

Target is the summation of the individual targets by the prime contractors.

Source: DOCITA, *IT Outsourcing Initiative: 1999-2000 Industry Development Progress Report*, p. 6.

⁸⁶ DOCITA, *IT Outsourcing Initiative: 1999-2000 Industry Development Progress Report*, p. 2.

1.99 The three contractors had aggregated in-scope achievements during 1999-2000 of:

	Achievement	Target#	% of target# achieved
Strategic Investment (\$'000s)	\$33 425	\$13 210	253
Exports (\$'000s)	\$23 528	\$11 140	211
Total employment – FTE	378	157	240
Total regional employment – FTE*	149	104	143

* Regional employment is a subset of the total employment number.

Target is the summation of the individual targets by the prime contractors.

Source: DOCITA, *IT Outsourcing Initiative: 1999-2000 Industry Development Progress Report*, p. 6.

In all of the results cited above, the contractors actually exceeded their targets, sometimes by a very significant factor. These results are a magnificent achievement and a testament to the success of the Government's ID framework.

Industry Criticism

1.100 There has been industry criticism that IT outsourcing has not benefited SMEs to the maximum extent that it could have. In this regard, two elements stand out. The first is clustering. It is argued that agencies grouping together has limited the scope for SME involvement, in particular as prime contractors, because they do not have sufficient resources to fulfil such large contracts. For example, in its submission to the Humphry Review, the Australian Information Industry Association (AIIA) stated that: 'The use of groups to achieve scale means there are few opportunities for SMEs to lead bids'.⁸⁷ The same sentiments were expressed by the Sausage Group in their submission to this Committee when they said that, 'To date the industry development has seen market share owned by multinationals with Australian companies relegated to subordinate partner'.⁸⁸

1.101 It is widely acknowledged that the Government's post-Humphry Review approach to IT outsourcing will bring greater benefits to SMEs, because implementation of IT outsourcing, including the most appropriate model to adopt has been 'devolved to agency Chief Executives and Boards' in accordance with Recommendations 1 and 2 of the Humphry Review and because at the expiration of the current contracts, agencies will not be mandated to remain in their current groupings, in accordance with Recommendation 4.

⁸⁷ AIIA, Submission to Humphry Inquiry, p. 13.

⁸⁸ The Sausage Group, Submission, p. 5.

1.102 As DOCITA states in its submission to the Committee, ‘The recommendations of the Review are likely to result in a much higher number of contracts of reduced size and scope to that experienced in the past under the Initiative’.⁸⁹ This will obviously provide greater scope for SMEs to participate in the IT outsourcing process as prime contractors in their own right, not just as sub-contractors.

1.103 In a press release of 23 April the Minister for Communications, Information Technology and the Arts, Senator the Hon Richard Alston said that,

The devolved environment is likely to result in increased opportunities for SMEs, as agencies outsource through smaller contracts. The Government expects to see more SMEs being lead contractors on Government contracts.⁹⁰

1.104 This is supported by the Australian Information Industry Association (AIIA) who said in their submission that,

The new approach to IT Outsourcing should of itself create more opportunities for SMEs, as there will be a range of deals of differing size and scope coming to the market. This will enable SMEs to bid for work in their own right, not just as sub-contractors to the multinationals.⁹¹

1.105 Mr Rob Durie, Executive Officer, AIIA affirmed this opinion during the course of his appearance before the Committee when he said, ‘So one of the things we see flowing out of the new approach is that there will be smaller scale opportunities which will be easier for SMEs to participate in as partners, or even as primes or handle totally themselves’.⁹²

1.106 Much the same point was made by the Canberra Business Council when it stated that, ‘... we believe the new system of IT outsourcing on an agency by agency basis will provide greater opportunities for local firms’.⁹³

1.107 To return to the point made by the Sausage Group that IT outsourcing has largely benefited, ‘multinationals with Australian companies relegated to subordinate partner’⁹⁴, it is crucial to note that both Advantra, the prime contractor for Group 5, and Ipex, the prime contractor for Group 8, are both Australian companies. It is also important not to denigrate the significant advantages that can accrue to a company as a sub-contractor. Certainly, it is a stated aim of the ID component of IT outsourcing to

⁸⁹ DOCITA, Submission, p. 5.

⁹⁰ Senator the Hon Richard Alston, *Media Release: Industry development framework for IT outsourcing*, 23-4-01.

⁹¹ AIIA, Submission, p. 5.

⁹² Senate Finance and Public Administration Committee Hansard, 17 May 2001, p. 419.

⁹³ Canberra Business Council Submission, p. 2.

⁹⁴ The Sausage Group, Submission, p. 5.

‘leverag[e] technologies and methodologies from experienced major outsourcing companies to the benefit of Australian SME’s’.⁹⁵

1.108 Trilogy Business Systems is involved in a partnership with CSC (the Cluster 3 prime contractor), and Mr Stephen Cable, Quality Services Director, Trilogy Business Systems, has described the benefits this has brought the company,

When Trilogy Business Systems began working with CSC almost three years ago, it had experience in dispersed desktop support but little else. Since working with CSC, Trilogy has taken on large rollout projects as well as large desktop and server support contracts with between 2 000 and 5 000 desktops. Trilogy has also branched out into WAN and Server support services as well as outsourcing for small enterprises. Staffing has grown from 75 to 110 people in this period. Whilst all of the above may not directly be attributable to our involvement with CSC, the experience we have gained from working with them and the encouragement, assistance and training received has certainly helped Trilogy to grow our business and expand our service offerings.⁹⁶

1.109 Protech, a company sub-contracted to EDS (the ATO prime contractor), is fulsome in its praise of the opportunities for further development that IT outsourcing has heralded. Mr Nick Cuthbertson, CEO, Protech states that,

While the direct revenue derived from EDS is of course valuable, the greatest value has come from the development of our all round capability and therefore our ability to successfully compete and win future business. Through our business with EDS we have had the incentive and necessity (to retain the business) to put in place world class systems, processes and personnel. This greater capability and confidence has enabled Protech to compete successfully in new markets. A further benefit has been the process of skills transfer from EDS in areas such as configuration management, dold disking and procurement management.⁹⁷

1.110 When he appeared before the Committee, Mr Ross Macdiarmid, Chairperson, Outsourcing Committee, Canberra Business Council stressed the avenues for new business that a government contract could open up, particularly in terms of exporting their services internationally. He said,

You can imagine that, if you are going anywhere around the world trying to sell your products, it would be very difficult to break into those markets without a credible reference. Having supplied services to the government

⁹⁵ OASITO, Submission, p. 4.

⁹⁶ Stephen Cable, cited in DOCITA, *IT Outsourcing Initiative: 1999-2000 Industry Development Progress Report*, p. 10.

⁹⁷ Nick Cuthbertson, cited in DOCITA, *IT Outsourcing Initiative: 1999-2000 Industry Development Progress Report*, p. 12.

sector has, I think, made it a lot easier for some of those companies to break into some of those markets.⁹⁸

1.111 The second element that is seen as an inhibitor to SME involvement in the IT outsourcing process is what is perceived as the high cost of tendering. This was, for instance, raised by the Canberra Business Council⁹⁹, the AIIA¹⁰⁰, and the Sausage Group¹⁰¹.

1.112 The Government is aware of these concerns and intends to address impediments to SME involvement in IT outsourcing contracts. This was made clear by the Minister for Communications, Information Technology and the Arts in a media release of 23 April 2001 when he stated that, '... the Government has announced an investigation of any impediments to SMEs selling IT goods and services to government, with an action plan addressing any impediments identified to be prepared'.¹⁰²

1.113 During the course of giving evidence to the Committee, Mr Sutton, DOCITA mentioned this review, saying,

As part of that review, we will be seeking to identify, in consultation with SMEs and the broader IT community and in consultation with agencies as well, specific factors that may impact negatively on the ability of SMEs to get contracts. One of the issues that we will be looking at as part of that will be current government contracting requirements, liability caps and whether there are ways of influencing the shape of RFTs which may have a positive impact on the ability of SMEs to get outsourcing work from the Commonwealth.¹⁰³

New ID Framework

1.114 In response to a number of findings made in the *Humphry Review*, on 12 January 2001, the Minister for Communications Information Technology and the Arts, 'announced that the Government would consult industry and a cross section of Commonwealth departments and agencies on the industry development framework applying to IT outsourcing ...'¹⁰⁴ Additionally, agencies will have a role in evaluating ID proposals. This goes a significant way towards addressing the concerns that some agencies expressed to the Committee that they felt excluded from the ID process.

⁹⁸ Senate Finance and Public Administration Committee Hansard, 16 March 2001, p. 345.

⁹⁹ Canberra Business Council Submission, p. 2.

¹⁰⁰ AIIA, Submission to Humphry Inquiry, p. 6.

¹⁰¹ Sausage Group, Submission, p. 3.

¹⁰² Senator the Hon Richard Alston, *Media Release: Industry development framework for IT outsourcing*, 23-4-01.

¹⁰³ Senate Finance and Public Administration Committee Hansard, 18 May 2001, p. 509.

¹⁰⁴ Senator the Hon Richard Alston, *Media Release: Government to consult on industry development framework for IT outsourcing*, 12-1-01.

1.115 The Minister emphasised the importance of continued SME participation, and said that,

The Government remains committed to using IT outsourcing to promote the development of the local IT industry. It will continue to seek to provide opportunities for Australian SMEs, and to enhance the prospects for long-term strategic investments'.¹⁰⁵

1.116 On 23 April 2001, the Minister for Communications, Information Technology and the Arts, announced details of the new ID framework. This new framework,

... favours strategic industry development outcomes and complements the Government's strategies to encourage the growth of Australia's information and communications technology (ICT) sector ... The result will be an IT contracting system which is more streamlined, with simpler outsourcing contracts and lower bidding costs, without sacrificing industry development objectives such as regional and small-to-medium sized enterprises (SME) development.¹⁰⁶

1.117 The new ID framework was developed after extensive consultation with the IT industry, including the Australian Information Industry Association. The AIIA said of the new ID framework, 'Overall we are extremely pleased'.¹⁰⁷

Justifications for IT Outsourcing other than Savings & Industry Development

1.118 There were reasons for the Government's IT Outsourcing Initiative other than savings and the facilitation of IT industry development, which became apparent during the course of the Inquiry.

1.119 In his *Review of the Whole of Government Information Technology Outsourcing Initiative*, Mr Richard Humphry found that,

The debate over cost savings has tended to obscure other benefits, which can arise from properly implemented outsourcing such as wider access to technology and technical skills, strategic partnership in a dynamic technical environment and an opportunity to manage capital expenditures more effectively.¹⁰⁸

1.120 Mr Brendan Welsh, Managing Director, IT Newcom, gave evidence that there are typically three major reasons that organisations seek to outsource their IT: 'cost

¹⁰⁵ Senator the Hon Richard Alston, *Media Release: Government to consult on industry development framework for IT outsourcing*, 12-1-01.

¹⁰⁶ Senator the Hon Richard Alston, *Media Release: Industry development framework for IT outsourcing*, 23-4-01.

¹⁰⁷ Senate Finance and Public Administration Committee Hansard, 17 May 2001, p. 413.

¹⁰⁸ Richard Humphry, *Review of the Whole of Government IT Outsourcing Initiative*, p. 22.

efficiency’, ‘the buying in of expertise’, and ‘improving the focus on core business’.¹⁰⁹

The Provision of Information Technology is not a core Function of Government Agencies

1.121 The first and most obvious justification for IT Outsourcing is that Information Technology is not a core function of the public service. The *raison d’être* of the public service is basically twofold: (1) to provide the government of the day with policy advice; and (2) to implement government policy. IT is certainly a valuable tool in assisting government agencies to meet their core functions, but it is not essential that IT be delivered internally, by the government agency itself. The outsourcing of IT frees up resources and allows agencies to focus to a greater extent on their core functions. For example, as a government business enterprise, Medibank Private was not required to participate in the outsourcing project but decided to become involved on the basis that IT is not part of its core business.¹¹⁰

1.122 The IT industry is intensely competitive and there is a worldwide shortage of suitably qualified IT professionals. Under the outsourced model, government agencies no longer have to concern themselves with finding suitable IT staff. Instead, this becomes the responsibility of the external service provider. This point was made by Mr Lionel Woodward, Chief Executive Officer, Australian Customs Service when he said that,

Some of the difficulties have been taken off our shoulders in that our prime contractor, EDS, have to try and get people and we are certainly aware of the quite considerable difficulties they have had in getting the right people in a number of areas despite worldwide trawling for staff.¹¹¹

1.123 Specialised IT companies are better placed to find suitable staff than government agencies because they are generally a better employment prospect for IT professionals in terms of the breadth of their focus, and in terms of career development, pathways and opportunities.

Contractually Defined & Improved Service Levels

1.124 IT Outsourcing has also resulted in improved IT service standards for agencies. This is based on the fact that the contracts with the external service providers specify the minimum service levels which must be met. As OASITO stated in its submission,

Putting service provision for IT services on an contractual basis through the Initiative has provided a heightened degree of transparency and

¹⁰⁹ Senate Finance and Public Administration Hansard, 9 March 2001, p. 206.

¹¹⁰ Senate Finance and Public Administration Hansard, 9 March 2001, p. 138.

¹¹¹ Senate Finance and Public Administration Hansard, 15 March 2001, p. 297.

accountability to the provision of IT infrastructure services. Previously, considerable IT infrastructure service achievements were made by APS staff through good management, good fortune and substantial investments in infrastructure, but where a lower level of transparency and accountability existed. Outsourcing has introduced defined services with standards that are precisely measured, reported and contractually enforceable. Agency personnel now understand the service level regime and the mechanisms in place to manage performance.¹¹²

1.125 The external service provider's (ESP's) performance is measured against the agreed service levels. For example, Cluster 3's Contract Management Office monitors,

CSC's performance against agreed service levels. Monthly performance reporting, together with regular independent audits on key aspects of service delivery, are the key control mechanisms used in ensuring services are being provided in accordance with the contract, and the appropriate charges and service credits are being applied.¹¹³

1.126 Importantly, where the ESP fail to meet these agreed service levels the contracts that have been concluded allow the agencies to impose service credits (i.e. a financial penalty). For example, the Health Insurance Commission has levied service credits of more than \$500,000 on its external service provider for such things as breaches related to a major mainframe outage, network availability and help desk support.¹¹⁴ Likewise, DOTRS has imposed service credits on its external service provider for breaches related, for instance, to network availability and help desk service.¹¹⁵ Similarly, CASA and the Australian Customs Service (ACS) have levied service credits on their external service providers.¹¹⁶

1.127 Service credits provide a direct incentive for the ESPs to meet required service levels and should actually result in better client service than existed in the past under the in-house arrangements. This is because if a company does not meet the required service levels a monetary penalty is imposed, which has a direct effect on the company's profitability. Under the in-house model, IT workers were paid, irrespective of service levels, so that there was not that same incentive, or even imperative, to improve service levels. As OASITO has noted, 'prior to outsourcing, most agency's IT units provided IT services on a best efforts basis, meaning they provided the

¹¹² OASITO, Submission, p. 14.

¹¹³ DIMA, Submission, p. 3.

¹¹⁴ Senate Finance and Public Administration Hansard, 9 March 2001, p. 159.

¹¹⁵ Senate Finance and Public Administration Hansard, 9 March 2001, p. 178.

¹¹⁶ Senate Finance and Public Administration Hansard, 9 March 2001, p. 197 and Senate Finance and Public Administration Hansard, 15 March 2001, p. 303.

services if they were able given resource constraints with no penalty if the services were not provided'.¹¹⁷

1.128 In its submission, the Community and Public Sector Union (CPSU) listed a range of what they referred to as 'consistent and recurring complaints' from members of agencies where IT has been outsourced, including such things as help desk difficulties, system outages, and difficulties logging onto networks.¹¹⁸ The CPSU also attached an appendix containing employee comments on service levels.¹¹⁹ This evidence is at best anecdotal and of dubious quality. The CPSU claims that, '[t]he picture that this paints is one of poor service, and a lowering of service levels following outsourcing'.¹²⁰ The CPSU's argument would be more convincing had they performed an analysis of pre-outsourcing service levels as compared to post-outsourcing service levels, permitting an evaluation of whether or not their claim has any merit. In his testimony to the Committee, Mr Matthew Reynolds, National President, CPSU said that, 'We do not have any data on the pre-outsourcing arrangements'.¹²¹ The sort of difficulties that the CPSU cites would almost certainly have occurred under the in-house model. Mr Reynolds conceded that the CPSU does get complaints about the service levels of in-house IT providers.¹²²

1.129 It is undeniable that agencies have been experiencing some difficulties with service levels (had they not, there would have been no scope to levy service credits). Mr Humphry said in his review that, 'a number of agencies have raised with me concerns regarding outages and service difficulties during the early stages of their outsourced arrangement'.¹²³ However, it would be unreasonable to expect the transition from in-house IT provision to external IT provision to be entirely trouble free. It is a major undertaking and technology, by its very nature, can be troublesome.

1.130 As the ESP matures into its role, it would be expected that there would be a continual improvement in service delivery. This has certainly been the experience of the ATO which states in its submission,

While there were some early problems with some components of service delivery, EDS generally met expected operational service levels from the handover date of 24 June 1999. There has been a continuous improvement in service delivery and in refinement of processes over the course of the operation of the *ATO Services Agreement*.¹²⁴

¹¹⁷ OASITO, Submission, p. 25.

¹¹⁸ CPSU, Submission, p. 3.

¹¹⁹ CPSU, Submission, Appendix A.

¹²⁰ CPSU, Submission, p. 3.

¹²¹ Senate Finance and Public Administration Hansard, 15 March 2001, p. 246.

¹²² Senate Finance and Public Administration Hansard, 15 March 2001, p. 246.

¹²³ Richard Humphry, *Review of the Whole of Government IT Outsourcing Initiative*, p. 31.

¹²⁴ ATO, Submission, p. 9.

1.131 In the early stages of the relationship, when it is still very much a learning process for the ESP and the agency, a judicious use of service credits may be advisable in the interests of building good working relations between the agency and its IT provider.

Access to Specialised Skills & Knowledge

1.132 Another advantage of IT Outsourcing is that agencies have been able to access specialist skills and knowledge which might not otherwise have been available to them under an in-house model. As much was acknowledged by Ms Kava, DOTRS, when she said that one of the benefits of IT Outsourcing was in the form of ‘access to innovation that would be very costly for the department to pursue in its own right’.¹²⁵ Ms Kava further said that,

As I understand it the department, as a small organisation, was already having difficulties in maintaining a strong presence in terms of technical support on site and would have required quite an investment in future to maintain the sorts of levels of assistance that we would like to have if we are going to be an organisation that is a very effective provider of services to its own staff. An important consideration is that staff actually have the wherewithal to do their work, and IT support is obviously an important part of that. Being part of a larger group and accessing an outsourced provider with stronger links into the technology and innovation side of things provided an opportunity for the department that was taken up.¹²⁶

1.133 Ms Kava used the example of moving to a new network environment as an example of the importance of specialist skills.¹²⁷

1.134 Mr Killesteyn, DIMA, used the issue of Y2K compliance as an example of the value of the breadth of specialised skills and knowledge of an ESP, saying that he doubted that, ‘DIMA could have done that by itself’, and describing the level of external support as, ‘extraordinary’.¹²⁸

Improved opportunities for former public sector IT employees

1.135 Outsourcing of IT has resulted in redundancies from the public service, but it has also presented former employees with an opportunity previously unavailable to them and that is to work for a company whose core business is IT, with all of the greater opportunities that entails. Mr Robert Leach, Assistant Commissioner, IT Services, ATO, said that,

Some people were actually looking forward to it [i.e. IT outsourcing], in the sense of being able to take their skills into a commercial world and into a

¹²⁵ Senate Finance and Public Administration Hansard, 9 March 2001, p. 175.

¹²⁶ Senate Finance and Public Administration Hansard, 9 March 2001, p. 176.

¹²⁷ Senate Finance and Public Administration Hansard, 9 March 2001, pp. 176–177.

¹²⁸ Senate Finance and Public Administration Hansard, 15 March 2001, p. 224.

company that was IT focused, not revenue focused. The prospect of working with an organisation that had a sole technology focus, given that some of the people were very technology focused, was exciting for a number of people. So the emotion shifts from ‘Shock, horror, we’re going to be outsourced!’ or ‘I’m in a job that is going to be outsourced,’ to ‘Gee, this might be an exciting new start for me.’ Obviously, not everyone thought that, but the people who thought they had really marketable skills saw it as an opportunity. Towards the end, we had a number of those staff.¹²⁹

1.136 Many of those public service employees made redundant have subsequently found work with an ESP or one of its subcontractors. There are obvious advantages for the ESP in employing someone who is familiar with the relevant agency and its culture. Mr John Growder, First Assistant Commissioner, IT Services, ATO said that a, ‘large number of our staff actually transferred to EDS or were employed by EDS’ and that it is likely that this assisted in the transition from the in-house provision of IT to the external provision of IT.¹³⁰ The ACS had a similar experience, and its submission notes that: ‘There was no discernible service disruption during the transition period, notwithstanding that the desktop ‘refreshment’ took place during the transition’.¹³¹

1.137 Mr Moran, DHAC, said that, ‘Something like 85 to 90 per cent of the Health people who were outsourced in fact got employment with IBM or one of the significant subcontractors’.¹³² Mr Killesteyn, DIMA, said that of those IT staff who took voluntary redundancies, on the basis of his ‘street knowledge’, around one-third of them obtained employment with the ESP and the rest obtained employment ‘with other outsourcers or in some other way’.¹³³

More Efficient Use of Resources

1.138 OASITO sees another benefit of IT outsourcing in the form of allowing agencies to monitor the cost of their IT, with some agencies having ‘implemented a ‘charge-back’ or user pays regime within their agencies following outsourcing, which leads to more efficient use of resources’.¹³⁴

Privacy & Security Safeguards

1.139 It was clear throughout the course of the Inquiry that agencies that have outsourced their IT are cognisant of the need for adequate safeguards for privacy protection and security and have taken steps to ensure that these requirements have been met. It is crucial that the external service providers and their employees do not

¹²⁹ Senate Finance and Public Administration Hansard, 15 March 2001, pp. 335 – 336.

¹³⁰ Senate Finance and Public Administration Hansard, 15 March 2001, p. 330.

¹³¹ ACS, Submission, p. 4.

¹³² Senate Finance and Public Administration Hansard, 9 March 2001, p. 121.

¹³³ Senate Finance and Public Administration Hansard, 15 March 2001, p. 220.

¹³⁴ OASITO, Submission, p. 25.

make use of the often confidential and sensitive material and data that they have access to for their own ends. It is also vitally important that only those people authorised to access and deal with the information are able to do so. The onus is on the government agencies themselves to ensure, ‘that their privacy protection and security requirements are met during the tender process and throughout the term of the Services Agreement’.¹³⁵ Of course, privacy and security have always been of paramount consideration, even under the in-house arrangements, but outsourcing has added an extra dimension of concern because non-agency personnel have access to sensitive individual data.

During the Tender Stage

1.140 According to OASITO’s submission, all parties who participated in the tender process were required, ‘to provide confidentiality and non-disclosure undertakings prior to gaining access to Group agency information’, on both a company and individual level.¹³⁶ Under the terms of the confidentiality undertaking, the participant agreed to be bound by the terms of the *Privacy Act 1998*.¹³⁷ Additionally, all agency personnel were required to give signed undertakings that they would comply with their obligations under the *Public Service Act 1999*, the *Commonwealth Authorities and Companies Act 1997*, as well as the *Crimes Act 1914* and the *Privacy Act 1998*.¹³⁸

1.141 OASITO went to extensive lengths to ensure that the privacy protection and security requirements met Commonwealth standards. Agencies were consulted about their privacy and security needs and participated in a process that culminated in their ‘signing off’ that the Request For Tender (RFT) and the evaluation reports adequately met their privacy protection and security requirements.¹³⁹

OASITO also, ‘consulted with specialist privacy protection and security agencies throughout the tender process to ensure that Commonwealth privacy protection and security requirements were met’.¹⁴⁰

1.142 In addition, OASITO consulted with the Federal Privacy Commissioner, who ‘signed off’, ‘that the privacy protection requirements set out in the RFT met Commonwealth privacy protection requirements’.¹⁴¹ Likewise, it consulted with the Defence Signals Directorate (DSD), ‘to ensure that Commonwealth IT security

¹³⁵ OASITO, Submission, p. 18.

¹³⁶ OASITO, Submission, p. 18.

¹³⁷ OASITO, Submission, p. 18.

¹³⁸ OASITO, Submission, p. 18.

¹³⁹ OASITO, Submission, pp. 18 - 19.

¹⁴⁰ OASITO, Submission, p. 19.

¹⁴¹ OASITO, Submission, p. 19.

requirements would be met' and DSD provided a 'sign off', 'that the RFT met these requirements prior to its release'.¹⁴²

The Provisions of the Services Agreements

1.143 The Services Agreements that have been concluded with the contractors contain a detailed privacy protection and security framework that the contractor, its sub-contractors and its employees must comply with at all times.

1.144 In its submission, the Office of the Federal Privacy Commissioner indicates that as part of its audit program it has scrutinised contracts with IT external service providers. It says that,

The results in relation to IT contracts have been encouraging. Since 1994, when the model privacy clauses were first issued, auditors from the office have scrutinised IT outsourcing contracts entered into by a number of agencies that now participate in one of the five clusters for which contracts have so far been let. All have contained clauses in line with the model clauses [contained in the Privacy Commissioner's paper, *Outsourcing and Privacy*].¹⁴³

1.145 Failure to comply with the privacy protection and security framework provisions can have very serious consequences for the contractor. Significantly, under the Services Agreements the contractors have agreed to accept unlimited liability, 'for losses arising from any breach of confidentiality, privacy or data security obligation'.¹⁴⁴ The ultimate sanction is that the contract can be terminated. OASITO notes in its submission that: 'A failure to comply with any of these provisions may constitute a material breach entitling the group agencies to terminate their Services Agreement'.¹⁴⁵ The Health Insurance Commission was insistent that it would not hesitate to terminate its contract for breach of privacy or security. Mr James Kelaher, Deputy Managing Director, Health Insurance Commission, said that,

A breach of those clauses relating to privacy and data security would be grounds for immediate termination. We would not want or allow the notion to develop that somehow or other a scale might be introduced or that we might look the other way for a small thing. I think our position is always going to be that, if that were to happen, that would lead to us instigating termination action.¹⁴⁶

¹⁴² OASITO, Submission, p. 19.

¹⁴³ Office of the Federal Privacy Commissioner, Submission, p. 8.

¹⁴⁴ OASITO, Submission, p. 20.

¹⁴⁵ OASITO, Submission, p. 20.

¹⁴⁶ Senate Finance and Public Administration Hansard, 9 March 2001, p. 159.

1.146 Mr Moran, DHAC, said that their contractor was required, ‘to design, describe and document all of their processes for data security, data management and the protection of privacy’.¹⁴⁷

1.147 It is important that the contractor’s compliance with its security and privacy obligations be monitored and Mr Moran indicated that DHAC does just that. He stated that, ‘We have an IT agency security adviser in my branch with staff whose job it is, among other things, to audit IBM GSA’s obligations under the contract and to ensure that each of its procedures are being followed’.¹⁴⁸ Likewise, Cluster 3 has a Contract Management Office, which, amongst other things, is responsible for coordinating and monitoring, ‘CSC’s compliance with its obligations under terms of the services agreement including security and privacy’.¹⁴⁹ In its submission, the ACS said that EDS is responsible for reporting any security breaches, as well as maintaining audit trails, and that security is oversighted by Customs own staff.¹⁵⁰

DIMA’s submission states that Cluster 3, ‘has worked closely with DSD to maintain a consistent management focus on security issues. In September 2000 DSD certified the CSC components of the Cluster 3 infrastructure’.¹⁵¹

1.148 Ms Jay, Medibank Private, indicated that every member of IBM GSA’s staff who has access to Medibank Private information has been required to sign a non-disclosure undertaking.¹⁵²

1.149 Mr Robert Thomas, Executive Director, Vendor Management, Health Insurance Commission, was adamant that the HIC has never had to levy a service credit on its contractor for a breach of security or privacy.¹⁵³

1.150 The ATO noted in its submission that it, ‘believes that it has addressed the range of confidentiality, privacy and security issues from both a contractual and a practical viewpoint’.¹⁵⁴ The ATO set out the steps that it has taken to ensure this, including,

Provision and compliance with an ATO-approved security plan that details how EDS will safeguard and protect the security of ATO data and ATO material;

¹⁴⁷ Senate Finance and Public Administration Hansard, 9 March 2001, p. 132.

¹⁴⁸ Senate Finance and Public Administration Hansard, 9 March 2001, p. 132.

¹⁴⁹ DIMA, Submission, p. 2.

¹⁵⁰ ACS, Submission, p. 3.

¹⁵¹ DIMA, Submission, p. 3.

¹⁵² Senate Finance and Public Administration Hansard, 9 March 2001, p. 147.

¹⁵³ Senate Finance and Public Administration Hansard, 9 March 2001, p. 159.

¹⁵⁴ ATO, Submission, p. 11.

All EDS and subcontractor staff signing a Deed of Undertaking in relation to confidentiality and secrecy. Security clearances are obtained for all staff. The ATO has instigated rigorous monitoring of security clearances of EDS and subcontractor staff allocated to the ATO Account;

The ATO right of access to EDS premises and material, to confirm EDS' compliance with the security and privacy obligations¹⁵⁵ ...

1.151 The ATO also stressed that its, 'arrangements have been reviewed by the Office of the Federal Privacy Commissioner ... to its satisfaction'.¹⁵⁶

1.152 Dr Leslie Willcocks, Andersen Professor of Information Management and E-Business, University of Warwick, gave evidence that, 'Working in the field, a number of outsourcing suppliers make the point that, quite often, data is more secure now because they are more security conscious than the previous regime could have been'.¹⁵⁷

The Privacy Act

1.153 Under the Services Agreements, the contractors are required to comply with the *Privacy Act 1988* as if they were an agency for the purposes of the Act.¹⁵⁸

1.154 Under amendments to the *Privacy Act* by way of the *Privacy Amendment (Private Sector) Act 2000* which will come into force on 21 December 2001, contractors to government agencies who deal with personal information will be required to comply with the Information Privacy Principles.

1.155 The Office of the Federal Privacy Commissioner set out the main effects of the amendments as:

- o any Commonwealth agency contracting out services must include in the contract clauses that prohibit the contractor from breaching the IPPs (s.95B Privacy Act);
- o if the contractor breaches such a clause, it is deemed to have committed an 'interference with privacy', just as an agency is if it breaches an IPP (s.13A(1)(c));
- o affected individuals can complain about the contractor direct to the Privacy Commissioner (s.36(1));
- o the Privacy Commissioner has the same powers to investigate complaints against Commonwealth contractors as against Commonwealth agencies (Part V); and

¹⁵⁵ ATO, Submission, p. 11.

¹⁵⁶ ATO, Submission, p. 11.

¹⁵⁷ Senate Finance and Public Administration Hansard, 17 May 2001, pp. 497 - 498.

¹⁵⁸ OASITO, Submission, pp. 18 - 19.

- o even if no complaint has been received, the Commissioner has the power to investigate potential breaches of s.95B clauses under s.40(2), which allows him or her to investigate an act or practice if it ‘may be an interference with the privacy of an individual’ and he or she ‘thinks it is desirable that the act or practice be investigated’.

A further specialised protection is afforded by s.16F that provides that a Commonwealth contractor that collects personal information under the contract must not use or disclose the information for direct marketing purposes unless it is necessary to do so in order to meet an obligation under the contract.¹⁵⁹

1.156 As a result of these measures, in the event of a breach of privacy by a contractor, an affected party will have a clear avenue of complaint to the Privacy Commissioner.

Has IT Outsourcing resulted in Breaches of Privacy?

1.157 A key measure of the effectiveness and appropriateness of the privacy and security measures that have been put in place is to ask whether there have actually been any breaches.

1.158 In its submission, the Office of the Federal Privacy Commissioner made the following comments: (1) ‘Experience to date suggests that few information privacy issues have arisen in connection with the Commonwealth IT outsourcing initiative’;¹⁶⁰ and (2) ‘The Office has received no complaints about, or reports of, privacy breaches associated with the IT outsourcing initiative.’¹⁶¹

1.159 Mr Malcom Crompton, Federal Privacy Commissioner, said during the course of providing evidence to the Committee that he is unaware of there being any incidents of a breach of privacy. He said that,

But then you have to look at whether the privacy risk has actually come to pass. As far as I am aware, we have not actually had any of those risks coming to pass. It is not as though something has gone wrong with an IT outsourcing contract, as far as I am aware, certainly not at a sufficiently large scale for us to know about it.¹⁶²

1.160 The majority report concedes that, ‘the evidence suggests that there have been no significant difficulties surrounding the maintenance of data security under the Initiative’.¹⁶³

¹⁵⁹ Office of the Federal Privacy Commissioner, Submission, pp. 6 – 7.

¹⁶⁰ Office of the Federal Privacy Commissioner, Submission, p. 9.

¹⁶¹ Office of the Federal Privacy Commissioner, Submission, p. 9.

¹⁶² Senate Finance and Public Administration Hansard, 21 May 2001, p. 590.

¹⁶³ Report into the Whole of Government IT Outsourcing Initiative, p. 151.

Conclusion

1.161 The Howard Government's IT Outsourcing Initiative has been a groundbreaking change in public policy. As a result of the Humphry Review of the outsourcing program there has been a change in the administrative approach, particularly evidenced by the devolution of responsibility for IT outsourcing to agency heads who may or may not choose to remain in clusters at the expiration of their current IT outsourcing contracts. If you look at anything deeply enough, at the myriad minutiae of detail, you will always find something to criticise. It is unrealistic to expect a program of this nature and size to be entirely trouble free. The majority Senators have gone out of their way to nitpick and to cast the Initiative in an unfavourable light. It is easy to become lost in all of the detail, but if you step back and look at the Initiative as a whole, it has some significant achievements. These include:

1.162 **Cost Savings:** Whilst there has been some controversy over the methodology in calculating savings and the overall quantum of the savings, what is not in doubt is that in the aggregate the Initiative has delivered considerable cost savings to the Commonwealth.

1.163 **Industry Development:** The ID component of the Initiative has been a major success. The Initiative has created work for companies which simply never would have existed but for the Initiative. In general, the contractors have not only met their ID targets, but have exceeded them by a significant margin. The ID component of the Initiative has facilitated investment in the IT industry, thereby fostering development of the IT industry and creating jobs, including in regional Australia. The Government has listened to the concerns that have been expressed about inhibitors to SME involvement and is working on a relevant action plan.

1.164 **Freeing Agencies to Concentrate on their Core Function:** IT is not a core function of government agencies and the Initiative has freed up agency resources to concentrate on what it is that they do best.

1.165 **Contractually Defined and Improved Service Levels:** The Service Agreements that have been concluded with the contractors contain specified service levels that the contractors are required to meet, as well as allowing the levying of service credits where contractors fail to meet these minimum levels of service. The contractors, therefore, have a direct incentive to meet these service levels. Under the in-house arrangements, IT staff were paid, irrespective of service levels, so that there was not the same incentive, or even imperative, to improve service levels.

1.166 **Access to Specialised Skills and Knowledge:** Agencies have been able to access skills and knowledge which have not have been available to them in-house.

1.167 **Improved Opportunities for Former Public Sector IT Employees:** A substantial number of former agency IT employees have been employed by either the prime contractors or one of their sub-contractors. This has opened up opportunities

previously unavailable to these employees, including working for a company whose core business is IT.

1.168 There has been a significant change in the direction of the Initiative following Mr Humphry's *Review of the Whole of Government Information Technology Outsourcing Initiative* and the Government's agreement to his recommendations. This has meant that to a significant degree this Inquiry has been focusing on the Initiative as it once was, not as it presently is. The Initiative is no longer centrally managed under OASITO. Responsibility for implementing the Initiative has been devolved to agency heads and OASITO no longer has a role to play in the outsourcing of IT. This means that the reflections on the role of OASITO in the process are no longer relevant. It is now the responsibility of agency heads to move the IT Outsourcing Initiative forward. The outsourcing of IT has evident benefits for government agencies and the minority Senators urge those agencies that have not yet outsourced their IT, where the agency believes it appropriate, to move towards doing so.

Senator Alan Eggleston

Senator Ross Lightfoot

Deputy Chair

