



# Community and Public Sector Union SPSF Group • WA Branch

## Civil Service Association of WA Inc

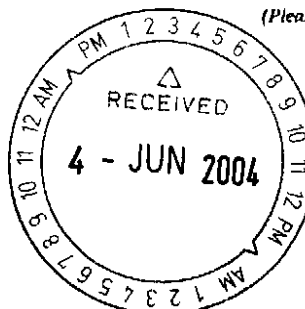
445 Hay Street, Perth WA 6000  
GPO Box X2252, Perth WA 6847  
UnionLink (08) 9323 3888  
(08) 9323 3800 • 1300 73 3800  
Fax: (08) 9323 3878  
Website at: [www.cpsucsa.asn.au](http://www.cpsucsa.asn.au)  
e-mail: [postbox@cpsucsa.asn.au](mailto:postbox@cpsucsa.asn.au)

Secretary  
Senate Select Committee on the  
Free Trade Agreement between Australia and the  
United States of America  
Suite S1.30.1  
The Senate  
Parliament House  
Canberra ACT 2600 AUSTRALIA

Your Ref

Our Ref

(Please quote this reference in correspondence)



4 June 2004

Dear Mr Holmes

### AUSTRALIA – UNITED STATES FREE TRADE AGREEMENT WA State Government Procurement Chapter Position

The Community & Public Sector Union/Civil Service Association has significant concerns about the USFTA. We believe the current draft agreement has many deficits and are particularly concerned by the apparent lack of insight and consultation of the WA State Government in agreeing to the Government Procurement Chapter.

The CPSU/CSA is very concerned on the lack of 'public interest' tests for any goods and services that may be covered by the draft agreement.

A summary of broad concerns is:

- The potential impact upon our members of increased costs for pharmaceuticals as a consequence of the PBS process changes. We have an aging demographic in the WA public sector and this factor alone has a significant potential to impact.
- Copyright extensions resulting in higher costs for libraries and education bodies. Our Union covers general staff in the Higher education sector and many libraries within the public sector. Higher costs for materials we believe will be balanced by reducing labour costs (through the loss of jobs).
- Fewer rights to regulate essential services. The provisions of the agreement can unfairly impose lesser standards for the provision of these services than the community currently enjoys. Many of our members are directly involved in the provision and regulation of these services and they fear the implications of lesser standards. We believe these services should be subject to 'public interest' provisions. Why a government would agree to lesser standards is difficult for us to comprehend.

- Undue influence on Australian policies for quarantine and other technical standards. Western Australia enjoys a high standard in terms of quarantine and any process that may lower the present standards should be rejected.
- Restrictions on Australian content rules in new media. The provisions will impact on content and culture. More so the inability to legislate in terms of new media for the future seems to detract from Australia's capacity to develop and market media domestically as well as internationally.
- The reduction of rights to review foreign investment
- The restrictions on regulation of Investment and Services in the 'negative list' methodology.
- The dispute process limits democracy. We agree with the concerns raised by the Australian Fair Trade & Investment Network.
- The impact on jobs from change to government procurement. This is discussed in some detail below.
- The economic benefits have not been properly assessed with the potential negatives outweighing any short-term benefits. The WA Government has not adequately assessed the potential impacts. The government has released no publicly accessible analysis and they refuse to acknowledge that any concerns have been raised in regard to the Government Procurement Chapter.

#### Concerns on the Government Procurement Chapter and Lack of Public Consultation

The Government Procurement Chapter causes extreme concern for our organization because of the potential implications for the people of Western Australia. It is noted that the Western Australian government is the only state government to have signed to Chapter 15 without any exemptions. This has occurred with extremely limited consultation and no concern for elements such as 'public interest' tests or 'labour standards' requirements.

A State government representative attended a meeting of Unions WA affiliates on 20 May 2004 at the request of the Union movement. Unfortunately this was after the Government had already signed to the Chapter. This was the first attempt from government to elicit the position of community groups in regard to the implications of the FTA. It was ascertained from that meeting that the total consultation process of the government was two industry forums held in March. There had been no seeking of submissions from the community, Unions, NGO's or any other attempts to gain an insight into community concerns or support for the Chapter.

There has not been any public process for a detailed analysis of the benefits or otherwise to WA of signing to Chapter 15. In response to parliamentary questions this week the government has advised it was conducting an economic, social and environmental analysis but this has yet to be approved for public scrutiny. There has not been any comparative examination of the NAFTA provisions for government procurement. This is particularly relevant in view of the refusal of Canadian Provincial Governments to agree to any government procurement Chapters.

The position of the WA Government appears to be that there are only benefits to the state from the Chapter 15 provision. It maintains the "Buy Local Policy" will continue to ensure the bulk of government procurement remains with local business. The FTA will only apply to contracts that exceed A\$666,000 for goods and services. The State Department of Treasury & Finance estimates current contract expenditure:

- |                             |     |
|-----------------------------|-----|
| • WA Businesses             | 80% |
| • Other Australian business | 5%  |
| • Overseas business         | 15% |

We question the practical capacity of the government to maintain that strong advantage to local business when the Chapter 15 provision is implemented. Indeed the government's current contrary policy implementation in regard to the provision of IT services is an example where the buy local imperatives have been overturned by aggregation of procurement and corporate services provisions through 'shared services models' effectively scuttling the 'SPIRIT' tendering outlines.

Our major concern in these areas is the potential to privatise the provision of IT, procurement, asset management, financial management and human resource management through the implementation of the shared service model for corporate services. This is an extensive restructuring of the WA Public Service currently being introduced by the state government.

At present this process will be modelled to provide for full cost recovery and after a 3 year moratorium the services will be accessed by an open market tender process. This will enable US corporate services companies to bid and potentially win the provision of these services. Clearly this signals a loss of jobs from the public sector and a commensurate impact on employment opportunities throughout the State.

Of further concern is Section 15.2 (7) that appears to imply that parties can invoke a 'commercial in confidence' component to prevent public scrutiny of the procurement arrangements. Given our exposure to 'commercial-in-confidence' clauses utilised in 'public-private partnerships' our Union is opposed to matters that are contrary to the public interest. Open scrutiny is an essential component of a participative democracy.

The WA government representative on 20 May 2004 stated the government would rely on the Australian court system upholding the due process in tendering and other issues. He cited the expensive cost to US companies of pursuing such actions and this would deter such potentials. It would seem this is a rather naive analysis when the prize is to accentuate a greater market share. Once US companies have been successful in unpicking the Australian processes there is no mechanism to redress the opening up of these provisions.

The WA Government continues to deny the existence of concerns and dissent from accepting unilaterally the Chapter 15 provisions. The following Parliamentary questions asked yesterday and answered:

Dee Margetts MLC to the Leader of the House representing the Premier:

I refer to QWN 213 on the 7<sup>th</sup> of April 2004 where it was stated that the WA Government is conducting an economic, social and environmental impact assessment of the Australia-US Free Trade Agreement (FTA) and I ask-

- (1) When was this assessment completed and is it available for public scrutiny?
- (2) If this assessment has not been completed, when will it be completed and publicly available?
- (3) Which WA interested parties, including unions, have been invited to participate in this impact assessment and when were they invited?
- (4) Has the Government received criticism from interested parties, including WA unions, regarding the decision not to seek exemption from the Government procurement provisions of the FTA for essential services, including health, welfare and education?
- (5) If yes to 3), could the Minister provide details of the criticism they have received from interested parties including the union movement in WA?

Response was as follows:

- 1) I am advised that the Department of Industry and Resources received the final version of the report in early May. Decisions regarding the release of the report will be made in Cabinet.
- 2) Not applicable.
- 3) Submissions to undertake the assessment were invited in early March 2004. Following this, the Allen Consulting Group was commissioned.
- 4) I am not aware of any such criticism.
- 5) Not applicable.

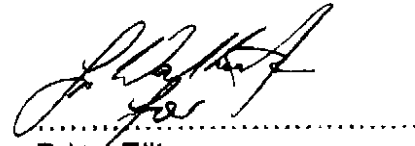
+61 8 93233876

These answers seem to reflect a government position that there is nothing to consider. Interestingly the answer to question 3 indicates no assessment has been undertaken. Indeed there has been no communication from Government to our Union or Unions WA in respect to this matter until May 20.

We respectfully ask the Select Committee to interrogate the process by which the WA Government arrived at the position to sign the Chapter 15 provisions without exemption. In our view there has been a clear lack of consultation, almost no critical analysis of the impacts and at best a naive acceptance that free trade is good no matter what the provisions may be.



Toni Walkington  
Branch Secretary



Brian Ellis  
Vice President